

EXHIBIT 11

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

-----) Civil Action No.:
IN RE: FLINT WATER CASES) 5:16-cv-10444-JEL-MKM
) (consolidated)
)
) Hon. Judith E. Levy
-----) Mag. Mona K. Majzoub

HIGHLY CONFIDENTIAL
VIDEOTAPED DEPOSITION OF GERALD AMBROSE

Wednesday, June 10, 2020
Volume 1

Remote oral deposition of GERALD AMBROSE,
conducted at the location of the witness in Lansing,
Michigan, commencing at approximately 9:07 a.m., on
the above date, before JULIANA F. ZAJICEK, a
Registered Professional Reporter, Certified Shorthand
Reporter, Certified Realtime Reporter and Notary
Public.

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15 THE VIDEOGRAPHER:

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1 from you to Liz Murphy and Jason Lorenz and others in
2 which some of it is redacted as privileged, but it
3 says, you to Mr. Lorenz:

4 "Jason, Based on our official statements
5 on this matter to date, please draft a response."

6 And the response is to Monica Galloway and
7 Joshua Freeman and the -- the other folks here who
8 were members of the City Council, right?

9 A. Yes.

10 Q. And what is reported there by Councilwoman
11 Galloway is: "Good morning Jerry, Congrats on your
12 new appointment as Flint's Emergency Manager.
13 Residents are requesting that the City of Flint go
14 back to the Detroit supply until KWA is completed in
15 2016. We received a letter from Detroit saying that
16 the 4-5 million dollar connection fee would be waived,
17 although the monthly charge would remain."

18 She goes on to say: "Are we as a
19 municipality willing to honor the concerns of
20 residents and businesses by making this temporary
21 change? Is Governor Snyder and his administration
22 (treasury assigned to Flint finances) willing to
23 financially support what to many is a crisis and
24 violation of their basic human right to quality

1 water?" Et cetera.

2 So this is the -- this inquiry is the
3 inquiry that you were asking Jason Lorenz to draft the
4 response to, correct?

5 A. Yes.

6 (WHEREUPON, a certain document was
7 marked Gerald Ambrose Deposition
8 Exhibit No. 27, for identification,
9 as of 06/10/2020.)

10 BY MR. ROGERS:

11 Q. And then the next day, on January 16th,
12 2015, this will be the next exhibit --

13 MR. ROGERS: Is it 27, Juliana, do I have that
14 right?

15 THE COURT REPORTER: Yes.

16 MR. ROGERS: Thank you.

17 BY MR. ROGERS:

18 Q. -- production number 0001673 from Flint.

19 This is your response to that request from
20 Council -- City Council members, dated January 16th,
21 2015, right?

22 A. This is not my response to -- to Council
23 Member Galloway's request, no, it is not.

24 Q. What is this?

1 A. This is my initial letter to the City
2 Council advising them that I was the newly appointed
3 emergency manager and outlining the issues and the
4 goals that I had, the expectations that I had.

5 Q. I see.

6 A. For --

7 Q. Okay. So this wasn't exactly the
8 response, but I want to direct your attention to this
9 page, the second page, 2, where you state:

10 "The plan articulated by former Emergency
11 Manager Darnell Earley, which does not include
12 reconnecting to DWSD, remains in place at this time."

13 Right?

14 A. That's correct.

15 Q. So, in fact, that was also your position
16 that when you became the emergency manager as of this
17 date in January 16, 2015, your plan for the City's
18 water supply was to remain using the Flint River and
19 not return to DWSD, right?

20 A. That's correct.

21 Q. Okay.

22 (WHEREUPON, a certain document was
23 marked Gerald Ambrose Deposition
24 Exhibit No. 28, for identification,

1 Q. Okay. The next document is Flint
2 production 0549830.

3 MR. ROGERS: And, Juliana, sorry, remind me what
4 exhibit number we are up to?

5 THE COURT REPORTER: Exhibit 30.

6 MR. ROGERS: Thank you very much. Exhibit 30.

7 BY MR. ROGERS:

8 Q. Do you recall this memorandum that you
9 wrote, Mr. Ambrose, to Mr. Wayne Workman, the -- the
10 Deputy Treasurer for the State of Michigan?

11 A. I do.

12 Q. And this is another document in which you
13 state that the -- as far as you were concerned as the
14 emergency manager, that the City would not be
15 returning to the DWSD as its water supply, is that
16 true, and you explain the reasons why?

17 A. Yes, I did.

18 (WHEREUPON, a certain document was
19 marked Gerald Ambrose Deposition
20 Exhibit No. 31, for identification,
21 as of 06/10/2020.)

22 BY MR. ROGERS:

23 Q. And then the next document, which will be
24 Exhibit 31, is a resolution -- it's Flint No.

1 0550059 -- presented on -- and adopted on March 23rd.
2 This was a -- a vote taken by the City Council to
3 actually return to DWSD as the City's water supply,
4 right?

5 A. That's what it -- yes, that's what it is.

6 Q. And the City Council didn't have the power
7 or authority under the existing law and arrangements
8 that existed at the time, rather, you, as the
9 emergency manager, had the power and authority to do
10 that, right?

11 A. That's correct.

12 Q. So would you consider this to be more of
13 an advisory vote or a recommendation by the City
14 Council to have the City return to DWSD?

15 A. I believe the resolution says it is a
16 recommendation of the City Council.

17 Q. Right.

18 It says here: "THEREFORE, BE IT RESOLVED,
19 the Flint City Council recommends" by an 8 to 0 vote
20 "that the City of Flint do all things necessary to
21 return to the Detroit Water and Sewerage Department
22 (DWSD) for the purchase of water for its citizens."

23 Right?

24 A. That's correct.

1 (WHEREUPON, a certain document was
2 marked Gerald Ambrose Deposition
3 Exhibit No. 32, for identification,
4 as of 06/10/2020.)

5 BY MR. ROGERS:

6 Q. And then the next document I'm going to
7 show you is a press release that you issued the next
8 day on March 24th. The Bates number on this document
9 is Flint 0009721.

10 Do you recall this?

11 A. Yes.

12 Q. And you say here -- I'm going to direct
13 your attention to this section, maybe I can highlight
14 it for you. I'll try to do that. This section right
15 here.

16 I'm sorry. This isn't the best and
17 straightest line I've ever drawn, but...

18 A. No problem.

19 Q. You said in the press release:

20 "It is incomprehensible to me that 7
21 members of the Flint City Council would want to send
22 more than 12 million a year to the system serving
23 Southeast Michigan, even if Flint ratepayers could
24 afford it. Water from Detroit is no safer than water

1 from Flint."

2 Did I read that correctly?

3 A. Yes, you did.

4 Q. So, Mr. Ambrose, you used the words here
5 "it is incomprehensible," and this was on March 24th,
6 2015.

7 Having read this document where you
8 described returning to the DWSD as incomprehensible,
9 does that refresh your memory that that's what you
10 said to Mr. Marvin Gnagy about this subject matter,
11 that it was incomprehensible, a return to DWSD?

12 A. No, it doesn't.

13 Q. And at this point in time, is it not
14 correct, as we discussed earlier, that the Utilities
15 Department for the City of Flint was not running a --
16 a deficit, right?

17 A. That's correct.

18 Q. And the reason that you were not in favor
19 of returning to the DWSD is that the \$12 million per
20 year that was being saved, you were using, in part,
21 to -- to fund upgrades to the water treatment plant so
22 that the City could eventually join the KWA, true?

23 MR. WOLF: Object as to form. Wolf.

24 BY THE WITNESS:

1 A. The reason that I was not in favor of
2 returning to DWSD was because, to my knowledge, the
3 water being produced, provided, was within State and
4 Federal guidelines. It was safe in that category --
5 in that -- it was safe from that perspective.

6 Quality was an issue. We had a plan to
7 address the quality, odors and -- odor and
8 discoloration, and that plan, implementing that plan,
9 in my perspective, was a better benefit to the
10 ratepayers and the users of the Flint water system.

11 BY MR. ROGERS:

12 Q. But -- but haven't you said -- stated on
13 many occasions, Mr. Ambrose, that the \$12 million that
14 was being saved by not purchasing the water from DWSD,
15 that \$12 million was what was being used to fund the
16 improvements to the plant, the water treatment plant,
17 that would be necessary for it to be upgraded to
18 eventually join the KWA, true?

19 A. That was one of the benefits of using the
20 river on an interim basis.

21 Q. Right. Okay.

22 (WHEREUPON, a certain document was
23 marked Gerald Ambrose Deposition
24 Exhibit No. 33, for identification,

1 A. Yes.

2 Q. Yet nobody from Veolia ever informed you
3 that lead could be a problem?

4 A. That's correct.

5 Q. Thank you.

6 Okay. I'm now going to call up what has
7 been -- what was offered yesterday as Exhibit No. 28.

8 Okay. And do you see that this is the
9 Veolia's Interim Water Quality Report to the City
10 Council, Public Works Committee?

11 A. Yes, I do.

12 Q. Okay. Now, under the Scope of Work, you
13 see that it is -- that it was highlighted here, and
14 Mr. Rogers pointed out, that the scope -- that they
15 believed their scope of work did not include "studying
16 why the change from DWSD or the history of the
17 utility"?

18 A. That's correct.

19 Q. And that's consistent with -- with the --
20 that's essentially consistent with the request to bid
21 the -- the proposal by VNA and the contract, wouldn't
22 you agree?

23 A. I agree.

24 Q. And I believe that the phrase that was

1 used yesterday was that "not revisiting the decision
2 to use the Flint River."

3 Do you remember saying that?

4 A. I remember a question. I'm not sure I
5 understand your question.

6 Q. Do you remember saying that -- that you
7 didn't want Veolia to revisit the decision to use the
8 Flint River?

9 A. Yes.

10 Q. Okay. What did you mean by that? What --
11 to what -- what did you mean by revisiting the -- the
12 decision?

13 A. Well, I think I note in his Items of Note,
14 where it says "studying why the change." We
15 expected -- I expected their focus to be on evaluating
16 the current processes of the plant and the
17 distribution system, and providing us with
18 recommendations as to how to maintain water safety and
19 improve water quality.

20 Q. Okay. So by -- when you were saying that
21 you didn't want Veolia to revisit the decision to use
22 the Flint River, what you were talking about was you
23 weren't asking them to criticize the decision that had
24 been made prior to your tenure as emergency manager,

1 is that correct?

2 A. Right, that's correct.

3 Q. You were asking them to examine what the
4 City was doing now and recommend what it could be
5 doing to -- to make -- to make -- ensure that it was
6 providing safe quality water to the residents of
7 Flint?

8 A. That's correct.

9 Q. And you didn't foreclose any options to
10 achieve those goals from their consideration, did you?

11 A. I did not.

12 Q. Now, do you see the second bullet point on
13 this page of Veolia's interim report?

14 A. I do.

15 Q. And you see where it says: "Safe =
16 compliance with state and federal standards and
17 required testing"?

18 A. Yes.

19 Q. And is that your understanding of what it
20 meant to produce safe water?

21 A. Yes.

22 Q. Why did you -- why was that your -- your
23 conclusion? Or why was that your belief?

24 A. My belief was that compliance with State